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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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JUL 17 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b))	
Table of Allotments)	MM Docket No. 97-169
)	
Channel 280A, Lanesboro, Minnesota)	RM-9121
Channel 280A, Westby, Wisconsin)	RM-9170

To: Mass Media Bureau (Policy and Rules)

OPPOSITION TO PETITION FOR RECONSIDERATION

Bluff Country Community Radio, Inc. ("Bluff-Country"), by its attorneys, and pursuant to Section 1.429 of the Commission's Rules, hereby submits its Opposition to the Petition for Reconsideration filed by Sparta-Tomah Broadcasting Company, Inc. ("Sparta-Tomah") in the above-referenced matter. As shown below, Sparta-Tomah's Petition fails to provide any engineering or legal basis that rebuts the Commission's finding that allotting Channel 280A to both Westby, Wisconsin and Lanesboro, Minnesota fully serves the public interest. Therefore, the petition must be denied so that first full-time aural reception services may be promptly introduced to both Westby, Wisconsin and Lanesboro, Minnesota.

BACKGROUND

In 1997, the Commission released a Notice of Proposed Rulemaking, 12 FCC Rcd 11383, seeking comment on the petition filed by Sparta-Tomah to allot Channel 280A to Coon Valley, Wisconsin as that community's first local service transmission service. Bluff Country filed comments on the Sparta-Tomah proposal, and offered a counterproposal whereby Channel

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280A would be allotted to both Westby, Wisconsin and Lanesboro, Minnesota as each of those community's first full-time aural reception service.¹ As noted in its comments, allotting Channel 280 to Lanesboro and Westby would provide a first local service to communities with a combined population of over 2,700 people. Coon Valley has a population of just 817 people.

The Commission, by Report and Order released May 22, 1998 (MM Docket No. 97-169), accepted Bluff Country's counterproposal and allotted Channel 280 to both Lanesboro and Westby, holding that because each was more populous than Coon Valley, the public interest would be better served under its allotment criteria by giving each community its first local transmission service. See, e.g., St. Marks and Woodville, FL, 12 FCC Rcd 11957; Three Oaks and Bridgman, Michigan, 5 FCC Rcd 1004 (1990). Even though the Commission did not reserve the channels for noncommercial use as requested by Bluff Country, Bluff Country reiterates that it will apply for the channel in both communities and will construct the stations if awarded the construction permits.

ARGUMENT

1. Bluff Country Disputes Petitioner's Claim that Nonreserved Channels 203A and Channel 207A could be allotted to Lanesboro and Westby

Petitioner claims that its engineering analysis shows nonreserved Channel 203A could be allotted to Lanesboro, Minnesota and Channel 207A could be allotted to Westby, Wisconsin. It argues that because Bluff Country initially requested noncommercial stations for these

¹ In its comments Bluff Country requested that the allotments be reserved for non-commercial educational use as no reserved band channel was available for use as a maximum Class A facility in either community. It noted however, that it would file for the channels even if not reserved by the Commission for educational use, and would build the station if it received construction permits.

communities, the Commission should not have granted Bluff Country's counterproposal in the first place. Even if Petitioner's claim were correct, it is irrelevant, however, as Bluff Country indicated it would apply for Channel 280 in both communities even if they were allotted as commercial stations. Under a strict commercial FM allotment analysis, the Commission properly determined that allotting a first local aural service to Westby and Lanesboro triggered a higher priority under its FM allotment criteria than if Channel 280A were allotted to Coon Valley. Further, contrary to Petitioner's claim that Lanesboro's population is decreasing, the Lanesboro Chamber of Commerce reports that the population has increased from 858 in 1990 to 921 people in 1997.² Because proper interest in the Westby and Lanesboro channels were shown, Petitioner provides no reason why this allotment should now be changed

The fact that Bluff Country has also filed an application for a new FM educational station in Lanesboro on Channel 203A does not prevent it from also filing for an application for a commercial FM station on Channel 280A in Lanesboro. Bluff Country stated in its counterproposal that no maximum Class A facilities could be allotted to Lanesboro or Westby in the reserved noncommercial band. When Bluff Country subsequently filed the Channel 203A application, it did so with the understanding that the station would not be able to operate at maximum facilities. Channel 203A could not be allotted as a maximum Class A station because of short-spacing concerns to WHWC(FM), Menomonie, Wisconsin, WGNV(FM), Milladore, Wisconsin and KLNI(FM), Decorah, Iowa, and to a proposed facility on Channel 204A, Rochester, Minnesota. See Engineering Statement attached as Exhibit 1 hereto.

² Information obtained from the web site www.lanesboro.com

Even though Bluff Country has proposed to construct an educational station on Channel 203A, it should be not be counted as an existing service to Lanesboro as suggested by Petitioner. The Commission has consistently held that because there is not a Table of Allotments for educational allotments, noncommercial stations should not be counted as an existing service until they are licensed, to ensure that they are actually used as an operating facility. See Greenup, Athens, Kentucky, 6 FCC Rcd 1493 (1991). In the case of Lanesboro, the Commission has not yet issued Bluff Country's proposed allotment on a cut-off notice, so the channel may not even be allotted to Lanesboro, and may be located elsewhere depending on the competing applications that are filed.

Finally, as shown in Exhibit 1, Petitioner's claim that Channel 207A could be allotted as a maximum Class A facility to Westby is incorrect. As set forth in Exhibit 1, due to short-spacing concerns, a full Class A facility on Channel 207 could not be used at Westby. Therefore, Petitioner fails to rebut the Commission's assertion that alternate channels are not available for allocation in either Lanesboro or Westby.

2 Bluff Country Proposes Sites That Allow 100% City Grade Coverage to Both Lanesboro and Westby

The Commission allotted Channel 280A to both Lanesboro and Westby with certain site restrictions to comply with spacing requirements. Petitioner claims that under these restrictions and from the proposed Westby site coordinates, a 3.16 mV/m signal would not be placed over the entire city of Westby. The Commission, however, refuted Petitioner's argument and stated proper coverage would be provided to the community. While Bluff Country supports the Commission's finding, assuming arguendo Petitioner's showing is correct, a slight modified site

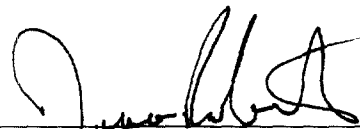
at Lanesboro, which is referenced in Exhibit 1, provides an even larger area to locate the proposed antenna tower for Westby. Suitable sites are available at both Lanesboro and Westby which ensure 100% principal community coverage to both communities and which still comply with the Commission's spacing requirements. Therefore, because allotting Channel 280A to Lanesboro and Westby fully complies with the Commission's technical requirements, Petitioner's claim of less than complete principal community coverage of Westby is incorrect.

CONCLUSION

Bluff Country Community Radio, Inc. respectfully requests that the Commission deny Sparta-Tomah Broadcasting, Inc.'s Petition for Reconsideration. As shown above, Sparta-Tomah Broadcasting, Inc. fails to rebut the Commission's finding that Channel 280A should be allotted to both Westby, Wisconsin and Lanesboro, Minnesota. These allotments serve the public interest, meet all Commission FM allotment criteria, and are otherwise in full compliance with the Commission's technical spacing and coverage requirements. Therefore, the Commission's above-referenced allotment order was correct, and the Petition for Reconsideration must be denied.

Respectfully submitted,

**BLUFF COUNTRY COMMUNITY RADIO,
INC.**

By: 
David D. Oxenford
Jason S. Roberts
Its Attorneys

FISHER WAYLAND COOPER LEADER
& ZARAGOZA L.L.P.
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006
(202) 659-3494

Dated: July 17, 1998

EXHIBIT 1

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20054

ENGINEERING STATEMENT

IN THE MATTER OF:) MM DOCKET NO: 97-169

AMENDMENT OF SECTION 73.202(B),) RM-9121
TABLE OF ASSIGNMENTS,)
F.M. BROADCAST STATIONS;)
(COON VALLEY & WESTBY, WISCONSIN)
(& LANESBORO, MINNESOTA)

TO: CHIEF, ALLOCATIONS BRANCH,
POLICY AND RULES DIVISION,
MASS MEDIA BUREAU.

PREPARED FOR:

BLUFF COUNTRY COMMUNITY RADIO

JULY 16, 1998

PREPARED BY:

LYLE ROBERT EVANS
TECHNICAL CONSULTANT
PACER TECHNICAL SERVICE, INC.
2450 CROOKS AVE.
KAUKAUNA, WISCONSIN 54130

(920) 766-0200

STATE OF WISCONSIN)

COUNTY OF BROWN)

VILLAGE OF ASHWAUBENON)

LYLE ROBERT EVANS, BEING FIRST DULY SWORN STATES:

**THAT HE IS A ELECTRONIC COMMUNICATIONS TECHNICAL
CONSULTANT WITH OFFICES AT 2450 CROOKS AVENUE, KAUKAUNA,
WISCONSIN, 54130;**

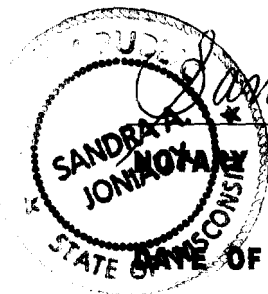
**THAT HIS QUALIFICATIONS AS AN EXPERT IN ELECTRONIC
COMMUNICATIONS ENGINEERING ARE A MATTER OF RECORD WITH
THE FEDERAL COMMUNICATIONS COMMISSION IN
WASHINGTON, D.C.;**

**THAT HE HAS PREPARED NUMEROUS AM, FM, MICROWAVE RADIO,
TELEVISION AND TRANSLATOR APPLICATIONS WHICH HAVE BEEN
PROCESSED TO GRANT BY THE FEDERAL COMMUNICATIONS
COMMISSION;**

**THAT THE FOREGOING TECHNICAL REPORT WAS PREPARED BY HIM,
AND ALL CALCULATIONS AND/OR MEASUREMENTS AND
EXHIBITS IN THE ACCOMPANYING REPORT WERE MADE BY HIM
PERSONALLY OR UNDER HIS DIRECTION, AND THAT ALL FACTS
CONTAINED HEREIN ARE TRUE OF HIS PERSONAL KNOWLEDGE OR
BELIEF, AND ON SUCH STATEMENTS MADE ON BELIEF, THEY ARE
BELIEVED TO BE TRUE AND CORRECT.**


LYLE ROBERT EVANS, AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 16'th DAY OF JULY, 1998



NOTARY PUBLIC

DATE OF COMMISSION EXPIRATION: 5-9-99

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20054

IN THE MATTER OF:) MM DOCKET NO: 97-169
AMENDMENT OF SECTION 73.202(B),) RM-9121
TABLE OF ASSIGNMENTS,)
F.M. BROADCAST STATIONS;)
(COON VALLEY & WESTBY, WISCONSIN)
(& LANESBORO, MINNESOTA)

ENGINEERING STATEMENT

This Engineering Statement constitutes a response to a Petition for Reconsideration of an FCC Report and Order, in Mass Media Docket Number 97-169, Released May 22, 1998.

Bluff Country Community Radio, ("Bluff-Country") the Respondent, retained the services of Lyle Robert Evans, Technical Consultant, to conduct engineering studies and prepare necessary Statements and Attachments to support the Opposition to a Petition for Reconsideration filed by Sparta-Tomah Broadcasting Company, Inc., ("Sparta-Tomah").

DISCUSSION

Sparta-Tomah, pursuant to §1.429 of the Commission's Rules, Petitioned for Reconsideration of the Report and Order in Mass Media Docket Number: 97-169.

Sparta-Tomah initiated a rule-making proceeding

RESPONSE TO PETITION FOR RECONSIDERATION
AMENDMENT OF 47 C.F.R. §73.202(b); TABLE OF ALLOTMENTS
FM CHANNEL 280A; 103.9 MHz.
RESPONDANT: BLUFF COUNTRY COMMUNITY RADIO

petitioning the allotment of Channel 280A as a first local service at Coon Valley. Bluff-Country filed a Counterproposal to allot Channel 280A, as a first local service at both Westby, Wisconsin, and Lanesboro, Minnesota.

The Commission, by Report and Order released May 22, 1998 (MM Docket No. 97-169), accepted Bluff-Country's counterproposal and allotted Channel 280A to both Westby and Lanesboro.

In it's Petition for Reconsideration, Sparta-Tomah claims that FM Channel 203 at Lanesboro, and FM Channel 207 at Westby, are available for a "maximum" Class A FM Broadcast Station operation. It further claims an FM operation on Channel 280A, at the Westby from the restricted illustrative allotment coordinates, would not provide a 70 dBu "Principal Community" coverage to all Westby.

REPLY

Sparta-Tomah, by it's Engineering Consultant Evans and Associates, states "a full Class A facility on Channel 203A could be assigned to Lanesboro if the transmitter is located 13.5 kilometers northeast of Lanesboro. The facility would not cause prohibited contour overlap with a Construction Permit (BPED-961023ME) for Channel 204A in Rochester,

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Minnesota." Evans and Associates conclusion is flawed.

47 C.F.R. Section 73.525, TV Channel 6 protection, applies to an FM Broadcast Station operation on Channel 203 at Lanesboro. Lanesboro, Minnesota, is located within the Rochester, Mason City, Austin Television DMA, and involves affected TV Channel 6 station, KAAL(TV), Austin, Minnesota; FCC File Number: BRCT-971201XI.

Evans and Associates did not supply coordinates of their Lanesboro Channel 203A illustrative site.

An Engineering Study conducted with approximate geographic coordinates of the illustrative site displays an maximum allowable operation of 6,000.0 watts vertical polarization, and 450.0 watts horizontal polarization, significantly less than a 6,000.0 watt circularly polarized operation.

Bluff-Country recently applied for an operation on NCE-FM Channel 203 at Lanesboro, FCC File Number: BPED-980309MC, specifying a maximum allowable facility radiating 3.25 kilowatt, vertical polarization only, from an antenna radiation center Height Above Average Terrain (HAAT) of 43.0 meters.

Sparta-Tomah, by it's Engineering Consultant Evans

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and Associates, states "a full Class A facility on Channel 207A could be assigned to Westby if the transmitter is located 7.1 kilometers east of Westby. The facility would not cause prohibited contour overlap with WLSU, Channel 205C3 in La Crosse, Wisconsin."

A Bluff-Country Engineering Study concurs with the Commission's conclusion that Channel 207A at Westby is short-spaced for allotment purposes to authorizations for other facilities.

An application for Channel 207C2 at Richland Center, Wisconsin, is on file with the Commission; FCC File Number: BPED-980309MC. At best, an application on Channel 207 at Westby would be mutually exclusive with the Richland Center application. An allotted Channel 280A at Westby, Wisconsin, can only be applied for at Westby.

Evans and Associates claims "assignment of Channel 280A to Westby would not comply with the city of license coverage requirement. Bluff-Country's proposal specified Westby illustrative allotment coordinates in full accord with 47 Code of Federal Regulations Section 73.208.

To alleviate any concern regarding "Principal Community" coverage at Westby, the Commission need only

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modify slightly the Channel 280A allotment coordinates at Lanesboro, Minnesota, to 43°-44'-45" North Latitude, 92°-08'-30" West Longitude.

Attachment E-A to this Engineering Statement displays the allotment of FM Channel 280A at Lanesboro, at the modified illustrative site coordinates, in complete compliance with all applicable minimum distance separation requirements set forth in 47 C.F.R. Section 73.207.

These modified coordinates provide an enlarged transmitter window for an operation on Channel 280A at Westby.

A Terrain Study, conducted in accord with 47 C.F.R. 73.313 of the Commission's Rules and Regulations, at geographic coordinates 43°-36'-05" North Latitude, 90°-44'-05" West Longitude, specifying a maximum Class A facility (6.0 kilowatt at 100.0 meters) displays all Westby encompassed by the 70 dBu (3.16 mV/m) "Principal Community" contour.

CONCLUSION

The most recent applicable FCC Rules and Regulations have been used in the preparation of this Engineering Statement.

It is believed to conform to the Commission's Technical Standards.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lyle R. Evans', written over a horizontal line.

Lyle R. Evans,
Technical Consultant to:
Bluff Country Community Radio

July 18, 1998

Lyle Robert Evans
Technical Consultant
2450 Crooks Ave.
Kaukauna, Wisconsin 54130
(920) 766-0200

ENGINEERING STATEMENT; CONCLUDED

APPLICANT: Bluff-Country
Response to Petition
For Reconsideration

ATTACHMENT E-A

Prepared 07/16/98

REFERENCE
43 44 45 N
92 08 30 W

CLASS A
Current rules spacings
CHANNEL 280 -103.9 MHz

DISPLAY DATES
DATA 04-20-98
SEARCH 07-16-98

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD280	280A	Lanesboro	MN	124.7	2.45	115.0	-112.55 *
AD	43 44 00	92 07 00	0.000 kW	OM	1.5	71.5	
Bluff Country Community Radio					RM9170		970922
>Site Restriction 11.8km West-Counterproposal							
AD280	280A	Coon Valley	WI	92.6	91.04	115.0	-23.96 *
AD	43 42 12	91 00 48	0.000 kW	OM	56.6	71.5	
Sparta-Tomah Broadcasting Com					RM9121		970610
KVGO	282A	Spring Valley	MN	228.3	30.58	31.0	-0.42 *
LI CN	43 33 46	92 25 29	2.800 kW	144M	19.0	19.3	
KVGO, Inc.					BLH931201KC		
>*To Channel 282C3 per D97-135							
KVGO.A	282C3	Spring Valley	MN	253.8	42.00	42.0	0.00 *
AP CN	43 38 23	92 38 30	10.000 kW	156M	26.1	26.1	
KFIL, Inc.					BPH971112IH		
>From Channel 282A per D97-135.							
ALOPEN	282C3	Spring Valley	MN	253.8	42.00	42.0	0.00 *
AL N	43 38 23	92 38 30	0.000 kW	OM	26.1	26.1	
97-135							
>Effective 11-10-97-Reserved for KVGO per D97-135							
AD280	280A	Westby	WI	96.1	117.24	115.0	2.24 <
AD	43 37 30	90 41 50	0.000 kW	OM	72.9	71.5	
Bluff Country Community Radio					RM9170		970922
>Site Restriction 13.2km East-Counterproposal							
KWMM	279A	Osage	IA	231.0	74.50	72.0	2.50 <
LI CN	43 19 20	92 51 22	6.000 kW	47M	46.3	44.8	
James Ingstad Broadcasting, I					BLH930616KD		
>*To Channel 254A per D97-135							
KNEIFM	278C2	Waukon	IA	131.1	73.83	55.0	18.83
LI CN	43 18 28	91 27 18	9.300 kW	175M	45.9	34.2	
David H. Hogendorn					BLH961115KB		
>From channel 280A per D89-257							
ALOPEN	279C3	Clear Lake	IA	227.8	120.99	89.0	31.99

APPLICANT: Bluff-Country
Response to Petition
For Reconsideration

ATTACHMENT E-A

Prepared 07/16/98

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AL	N 43 00 35	93 14 31	0.000 kW	OM	75.2	55.3	
>Reserved for KLKK per one-step application 971215IE							
KMJZ	281C1	St. Louis Park	MN	332.2	165.52	133.0	32.52
LI	CN 45 03 30	93 07 27	89.000 kW	315M	102.9	82.7	
					Nationwide Communications, In BLH960411KC		
WIZMFM	227C	La Crosse	WI	83.5	62.67	29.0	33.67
LI	CN 43 48 23	91 22 04	100.000 kW	311M	39.0	18.0	
					Family Radio, Inc. BLH830527AE		
KLKK.A	279C3	Clear Lake	IA	233.1	125.97	89.0	36.97
AP ZCN	43 03 35	93 22 47	25.000 kW	77M	78.3	55.3	
					James Ingstad Broadcasting, I BPH971215IE		
>One-step application from 276A							
ALOPEN	279C1	Hallie	WI	26.8	170.46	133.0	37.46
AL	N 45 06 35	91 09 43	0.000 kW	OM	105.9	82.7	
					90-647		
>Effective 10-5-95-Reserved for WWIB, Ladysmith, WI. per D90-647							
WWIB	279C1	HALLIE	WI	26.8	170.46	133.0	37.46
LI	CN 45 06 35	91 09 43	100.000 kW	207M	105.9	82.7	
					Stewards of Sound, Inc. BMLH950914KC		
>*To Channel 279C1, Hallie WI. per D90-647							
WAXX	283C	Eau Claire	WI	42.2	138.97	95.0	43.97
LI	CY 44 39 51	90 57 41	100.000 kW	549M	86.4	59.0	
					Central Communications, Inc. BLH7142		
WIZMFM	227C	La Crosse	WI	84.1	76.19	29.0	47.19
LI	CN 43 48 44	91 11 59	100.000 kW	165M	47.3	18.0	
					Family Radio, Inc. BLH830527AD		
>** This license is for an AUXILIARY facility of WIZM-FM, La Crosse,							

CERTIFICATE OF SERVICE

I, Kimberly A. Lacey, do hereby certify that I have this 17th day of July 1998, mailed by first-class United States mail, postage prepaid, copies of the foregoing "**OPPOSITION TO PETITION FOR RECONSIDERATION**" to the following:

John S. Neely
Miller & Miller, P.C.
P.O. Box 33003
Washington, D.C. 20033


Kimberly A. Lacey